

CHAPTER VIII.

AN ACT TO INCORPORATE THE VILLAGE OF WINNEBAGO CITY,
FARIBAULT COUNTY.

Be it enacted by the Legislature of the State of Minnesota :

SECTION 1. That the south-east quarter of section thirty-four and the south one-half of the north-east quarter of section thirty-four, and the south-west quarter of section thirty-five, and the south half and the north-west quarter of the north-west of section thirty-five, and the west half of the south-east quarter of section thirty-five, all in town one hundred and four, range twenty-eight west, shall be known as the village of Winnebago City, and as such corporation shall possess and enjoy all the powers and privileges that can now or hereafter may be possessed or enjoyed by any municipal corporation, and by that name may sue and be sued, contract and be contracted with, purchase, take and hold real or personal property, ever grant or demise of lands for rights or transfer of property which be in the name of the village and convey the same, and may have a corporate seal and alter the same at pleasure.

SEC. 2. The elective officers of said corporation shall be one president, one recorder, three trustees, one treasurer, one assessor, one justice of the peace, who shall be styled police justice, and one constable, who shall be styled marshal, and shall each hold their office for the term of one year and until their successors are elected and qualified. In addition to the above mentioned officers the common council shall have power to appoint and define the duties of such other officers as the said council may deem necessary. All village officers shall have resided in the village four months, and be qualified electors of the state.

SEC. 3. Each officer before entering upon the duties of his office and within ten days after receiving notice of his election, shall give notice in writing of his acceptance of the same to the recorder, and shall take and subscribe before some officer by law authorized to administer oaths, an oath of office to support the constitution of the United States and the constitution of the state of Minnesota, and that he will faithfully perform the duties of his office in accordance with the law and the ordinances of said village. And in addition thereto the treasurer, recorder, justice of the peace and constable shall each give bond in sum not less than four hundred dollars, to

be determined by said council, conditioned for the faithful performance of the duties of their respective offices, which bond shall be filed with the recorder of said village.

SEC. 4. That the president, recorder and trustees shall constitute the common council, to which body shall belong all the legislative powers granted by this act to said corporation. All actions of the council intended to have the force of rules or law or authority for contract shall be by ordinance under the style of "Be it ordained by the common council of the village of Winnebago City," but no ordinance shall embrace more than one subject, which shall be expressed by its title. The common council shall meet for the transaction of business at least once in two months, and a majority thereof shall be a quorum for the transaction of any business. The president when present shall preside at all meetings of the common council, but in case of his absence the members present shall choose one of their number to preside during his absence; but no ordinance shall be passed except by the vote of the majority of all the members of the common council. A record in book form shall be kept by the recorder, in which he shall record all the proceedings of the common council, and ayes and noes on every ordinance voted upon shall be entered therein.

SEC. 5. That to the president shall belong the executive powers granted by this act to said corporation, except such of said powers as are especially vested in, or must from their nature necessarily pertain to the other executive officers of said corporation, and whether said officers are created by this act or by the common council, he shall have power, and it shall be his duty to call out and use in such manner as may deem most proper, all the constabulary or police of said corporation to quiet or prevent riot. He shall have power to call a meeting of the council by giving such notice thereof as may have been provided for by ordinance, or in default of such provision, in such manner and at any time he may deem proper.

SEC. 6. That the recorder shall be the recording officer of the village and the common council. He shall have the custody of the seal and all the records of said corporation not specially appertaining to the other officers thereof. He shall receive all moneys payable to said corporation, except as hereinafter provided, and shall immediately pay the same over to the treasurer, charging him therewith and taking his receipt therefor. He shall keep all the accounts of the corporation, receive all claims against the same, and draw orders upon the treasurer for moneys by said corporation, but no such order shall ever be drawn by said recorder unless the same shall be in full or part payment of a claim previously audited and allowed by the common council. He shall, at the close of each official year, make to the common council a condensed report of all his business as such

officer during the year. Such report shall be published in such manner as may by ordinance be provided, and he shall, with all reasonable dispatch, make such other reports and at such times as the common council shall require.

SEC. 7. That the treasurer shall be the depository of all moneys belonging to the corporation. He shall from such moneys, pay upon presentation, all orders therefor, drawn by the recorder and countersigned by the president. *Provided*, No order shall be paid unless the name of the payee thereof is endorsed thereon in writing, and the party receiving the money.

SEC. 8. That the justice of the peace shall have all the powers and jurisdiction of justices of the peace provided and elected under the general laws of the state, and in addition thereto shall have cognizance and exclusive original jurisdiction of all suits, prosecutions or proceedings for the recovery of any fine, forfeiture or penalty under any by-law, ordinance or regulation of said corporation, or under this act, or for the breach or violation of any such by-law, ordinance, or regulation, and all cases of assault, batteries, and affrays, not indictable, and for a breach or violation of any by-law, ordinance or regulation, shall be commenced in the name of the village of Winnebago City, and the same proceedings shall be had in all civil and criminal suits or prosecutions before said justice, when not otherwise herein directed, as are established and required to be had in civil and criminal actions by the general laws of the state, before justices of the peace, except that no change of venue can be taken in any action in which the said corporation is a party. The justice of the peace shall take judicial notice of the by-laws, ordinances and regulations of said corporation, and it shall not be necessary in any action civil or criminal, before said justice, to plead or refer to the same in any manner whatever in any pleading or complaint, but said by-laws, ordinances and regulations shall in said justice court be held and deemed public law. The justice of the peace shall, once in three months, make to the common council a full report of all the moneys received by him for fines, forfeitures and penalties, and shall pay them into the hands of the recorder, taking his receipt therefor. The fees of the justice of the peace shall be the same as allowed and fixed by the general laws of the state. All warrants, writs and processes of every nature issued by such justice, shall be directed to the sheriff or any constable of the county of Faribault, and may be executed or served by the constable elected under the provisions of this act, or by the sheriff, or any other constable of said county, and for such purpose such sheriff or constable shall have and possess the power and authority which by the general laws of the state they have and possess in the execution of warrants, writs and processes.

SEC. 9. The constable shall be the ministerial officer of the council; he shall also be chief of the police force of said village, but as such shall be subordinate to the president and his fees shall be fixed by ordinance of the council; *Provided*, Said constable shall, within the county in which he resides, also, have and exercise all the powers and perform all the duties of, and when acting as such, receive the same compensation as constables elected under the general laws of the state.

SEC. 10. There shall be an annual election for elective officers herein provided for on the first Monday in April in each and every year, and the polls shall be kept open from ten o'clock in the forenoon until four in the afternoon, and ten days previous notice shall be given by the council of the time and place of holding such election, and the officers to be elected, by posting notices in three of the most public places in the village. At the said elections the trustees or any two of them shall act as judges of election, and the recorder as clerk, and in case of non-attendance of any of these officers the vacancy shall be filled by an appointment made by those officers present. At the close of the polls the votes shall be counted and a true statement thereof proclaimed by one of the judges, and the recorder shall make true record thereof, and within five days thereafter shall give notice in writing to persons so elected of their election. The first election under this act shall be held on the first Monday in April, A. D. one thousand eight hundred and seventy-three, and shall be conducted by J. H. Welch, A. A. Huntington, E. A. Hotchkiss and D. P. Wasgat with power of appointment and substitution in case of absence.

SEC. 11. Whenever a vacancy shall occur in any elective office it shall be filled by a new election called by the council in the same manner as hereinbefore provided for other elections; persons elected to fill a vacancy shall hold his office and discharge the duties for the unexpired term thereof.

CHAPTER II.

SECTION 1. The common council shall have the management and control of the finances and of all the property of the corporation, and shall also, in addition to the power herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend, and repeal all such ordinances, rules, by-laws and regulations for government and good order of the village, for the suppression of vice and intemperance, and for the prevention of crime as they shall deem expedient. The common council shall have full power and authority to declare and impose fines, penalties and punishments, and to enforce the same against any person

or persons who may violate any of the provisions of any ordinance, by law, or regulation ordained or passed by them, and all such ordinances, by-laws and regulations are hereby declared to be and have the force of law; *Provided*, That they be not repugnant to the constitution of the United States or of this state, and for those purposes shall have authority by ordinance, rules, by-laws and regulations:

First—To license and regulate the exhibitions of common showmen and shows of all kinds, or the exhibitions of caravans, circuses, concerts or theatrical performances, billiard tables, nine or ten pin alleys, bowling saloons, to grant license and regulate auctions and auctioneers, groceries, taverns and all persons vending or dealing in spirituous, vinous, or fermented liquors.

Second—To restrain and prohibit all descriptions of gambling and fraudulent devices and practices, and all playing of cards, dice, or other games of chance, for the purpose of gaming in said village, and to restrain any person from vending, giving or dealing in spirituous, fermented or vinous liquors, unless duly licensed by the common council.

Third—To prevent any riots, noise, disturbance and disorderly assemblages in said village, and to provide for the arrest and punishment of any person or persons who shall be guilty of the same to suppress disorderly houses and houses of ill-fame, and to provide for the arrest and punishment of the keepers thereof, and to authorize the destruction of all instruments used for the purpose of gambling.

Fourth—To compel the owner or occupant of any grocery, cellar, tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome, nauseous house or place to cleanse, remove or abate the same from time to time as often as may be deemed necessary for the health, comfort and convenience of the inhabitants of said village.

Fifth—To direct the location and management of slaughter houses, and markets, breweries and distilleries.

Sixth—To prevent the encumbering of streets, sidewalks, lanes, alleys or public grounds with carriages, carts, wagons, sleighs, boxes, lumber, firewood, posts, awnings or any other materials or substances whatever.

Seventh—To prevent and punish horse racing and immoderate riding or driving in the streets. To compel persons to fasten their horses or other animals attached to vehicles while standing in the streets.

Eighth—To restrain the running at large of cattle, horses, swine, sheep, poultry and geese, and to authorize the distraining and sale of the same, and to impose penalties on the owners of such animals for violation of the ordinances.

Ninth—To prevent the running at large of dogs, and may impose a tax upon the same, and to authorize the destruction of the same in a summary manner when at large contrary to the ordinance.

Tenth—To prevent any person from bringing, depositing or having within said village any putrid carcass or other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any substance or putrid or unsound beef, pork, fish, hides or skins, and in default to authorize the removal thereof by some competent officers at the expense of such persons or person.

Eleventh—To make and establish public pounds, pumps, wells, cisterns, hydrants and reservoirs, and to provide for and control the erection of water works for the supply of water to the inhabitants.

Twelfth—To establish and regulate boards of health and provide hospitals and hospital grounds.

Thirteenth—To prevent all persons riding or driving any ox, mule or cattle or other animal on the sidewalks in said village or in any way doing any damage to such sidewalks.

Fourteenth—To prevent the shooting of fire arms, crackers, and to prevent the exhibitions of any fire-works in any situation which may be considered by the council dangerous to the town or any property therein or annoying to any citizens thereof.

Fifteenth—To prevent open or notorious drunkenness and obscenity in the streets or public places of said village, and to provide for the arrest and punishment of all persons who shall be guilty of the same.

Sixteenth—To license and regulate butchers' stalls, shops and stands for sale of game, poultry, butchers' meat, fish and other provisions.

Seventeenth—To regulate the place and manner of weighing hay and selling the same and the measuring and selling of wood, coal and lime, and to appoint suitable persons to superintend and conduct the same.

Eighteenth—To compel the owner or occupant of buildings or grounds to remove snow, dirt or rubbish from the sidewalk, street or alley opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him all such substances as the board of health shall direct, and in his default, to authorize the removal or destruction thereof by some officer of the village at the expense of such owner or occupant.

Nineteenth—To provide for watchmen and to prescribe their numbers and duties, and to regulate the same, to establish the police of said village and to prescribe the number and their duties, and regulate the same.

Twentieth—To provide by ordinance for a standard of weights and measures, for the appointment of a village sealer, and to require all

weights and measures to be sealed by the village sealer and to provide for the punishment of the use of false weights and measures.

Twenty-first—To direct and regulate the planting and preserving of ornamental trees in the streets and public grounds.

Twenty-second—To remove and abate any nuisance injurious to the public health, and to provide for the punishment of all persons who shall cause or maintain such nuisances.

Twenty-third—To remove and abate any nuisance, obstruction, encroachment upon the streets, alleys, public grounds and highways of the village.

Twenty-fourth—To do all acts and make all regulations which may be necessary or expedient for the preservation of health and the suppression of disease, and to make regulations to prevent the introduction of contagious or infectious diseases into the village, and to make quarantine laws and to enforce the same within the village.

Twenty-fifth—To restrain and punish mendicants, beggars and prostitutes.

Twenty-sixth—Fines, penalties and punishments imposed by the common council for the breach of any ordinance, by-law or regulation of said village, may extend to a fine not exceeding one hundred dollars and imprisonment not exceeding thirty days, or both, and to be fed on bread and water at the discretion of the justice; and offenders against the same may be required to give security for their good behavior, and to keep the peace for a period not exceeding six months, and in a sum not exceeding five hundred dollars.

SEC. 2. All ordinances, regulations, resolutions and by-laws shall be passed by an affirmative vote of a majority of the common council by ayes and noes, and published at least once in the official paper or posted in three conspicuous places in said village, before the same shall be in force, and thereafter shall be admitted as evidence in any court in the state without further proof. They shall be recorded by the recorder in books provided for that purpose.

SEC. 3. The power conferred upon the common council to provide for the abatement or removal of nuisances shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Gambling houses, houses of ill-fame, disorderly taverns, and houses or places where spirituous or vinous or fermented liquors are sold without license required therefor within the limits of said village are hereby declared and shall be deemed public or common nuisances.

SEC. 4. The council shall examine, audit and adjust the accounts of the recorder, treasurer, justice, and all other officers and agents of the village at such times as they may deem proper, and also at the end of each year and before the term for which the officers of said village were elected or appointed shall have expired. And the common council shall require each and every such officer and agent to

exhibit his books, accounts and vouchers for such examination and settlement, and if any such officer or agent shall refuse to comply with the orders of said council in discharge of their said duties in pursuance of this section, or shall neglect or refuse to render his accounts or present his books and vouchers to said council, or a committee thereof, it shall be the duty of the council to declare the office of such person or officer vacant, and the common council shall order suits and proceedings at law against any officer or agent of said village who may be found defaulting or delinquent in his books or accounts, or in the discharge in any manner of his official duties, and shall make a full record of all such settlements and adjustments.

CHAPTER III.

SECTION 1. All actions brought to recover any penalty or forfeiture under this act or the ordinances, police or health regulations in pursuance thereof, shall be brought in the corporate name of the village.

SEC. 2. In all prosecutions for any violation of this act or any ordinance of the village, the first process shall be by warrant; *Provided*, That no warrant shall be necessary in any case of the arrest or apprehension of any person or persons while in the act of violating any law of the state of Minnesota or ordinance of the village, but the person or persons so arrested may be proceeded against, tried and convicted and punished or discharged in the same manner as if the arrest had been by warrant.

SEC. 3. The constable and other police officers are hereby vested with all the powers of a sheriff or constable in the service of writs as granted to them by the law of the state, and may pursue into any county in this state and take and bring back for trial any offender against the ordinances of said village.

SEC. 4. When any suit or action shall be commenced against said village the service then shall be made by copy left with the recorder of the village.

SEC. 5. No law of this state contravening the provisions of this act shall be considered as repealing, amending or modifying the same unless such purpose be expressly set forth in such act.

SEC. 6. The sale of intoxicating, vinous, spirituous, malt or fermented liquors within the limits of said village is hereby declared to be under the exclusive control of the common council of said village, and all fines imposed for violation of any ordinance regulating such traffic shall be paid into the treasury for the use thereof.

SEC. 7. The common council shall have the power and authority to open, lay out or vacate streets and alleys within the limits of said village which is conferred by general laws of the state upon boards

of supervisors of townships to open, alter, discontinue or lay out roads, and in the matter of opening, laying out or vacating streets or alleys and the assessment of damages the common council shall be governed by and act under the general laws of the state governing boards of supervisors, and appeals may be taken in the same manner to the county commissioners as appeals are under the general laws taken from the decisions of township supervisors.

SEC. 8. The cost and expense of building, grading, paving or repairing sidewalks shall be at the option of the common council, chargeable to the lots fronting on said improvements. Whenever the common council shall deem it necessary to construct or repair any sidewalk in the village of Winnebago City they may require the street commissioner to notify all owners and occupants of any lot or lots or parcels of land adjoining such sidewalk to construct or repair the same at his or their own proper expense and charge within a certain time designated by delivering to the owners or occupants of said lots or parcels of land, or by the publication in a newspaper printed and published in said village for not less than two weeks of a notice to said owners or occupants, setting forth what work is to be done, and the character of the same, by such owners or occupants, and the time within which they are required to do the same.

SEC. 9. If such work is not done in the manner and within the time prescribed, the common council may order the same to be done by the street commissioner at the expense of the lots or parcel of land adjoining, and said expense shall be assessed upon such lots and parcels of land so chargeable by the street commissioner and returned by him to the council, and said assessment so made and returned, if approved by the common council, shall become a lien upon said lots and parcels of land, as in case of town, county and state taxes.

SEC. 10. If said assessment be not paid to the street commissioner on or before the twentieth day of August, in any year, the common council shall cause a statement of the same to be transmitted with the village taxes levied for that year, to the auditor of the county of Faribault, on or before the first day of September in each year, and the said auditor shall insert the same with the other taxes in the duplicate statement of taxes annually transmitted by him to the county treasurer for collection, and payment thereof enforced with and in like manner as county and state taxes are collected and payment enforced.

SEC. 11. The common council may prescribe the width of sidewalks, and may establish different widths in different localities, and may determine the kind of material of which they shall be constructed, having regard to the business and amount of travel in the vicinity of each.

SEC. 12. All property, real and personal, except such as may be exempted by the general laws of the state, or is village property, shall be subject to taxation not exceeding two and one-half mills on the dollar per year for general expenses. Such property shall also be liable for such special taxes as the common council are herein authorized to levy.

SEC. 13. The common council shall have full power to order and direct the levy and collection within the limitation prescribed by law of taxes sufficient to give full effect to the powers herein conferred.

SEC. 14. The common council shall have power to provide by ordinance for the manner of assessing and enforcing the collection of all taxes levied under the provisions of this act, but until express provisions are made in regard to that subject all taxes shall be collected as follows: The recorder shall deliver to the county auditor of Faribault county a certificate signed by him under the seal of the corporation setting forth the amount levied upon every dollar in value of the taxable property within the limits of the village of Winnebago City as incorporated by this act. It thereupon shall become the duty of the said auditor to add the amount thus levied to the assessment rolls of the year in which such levy was made, and it shall become the duty of the county treasurer of said county to collect the amount thus added to the assessment roll and to enforce the collection of the same in like manner as any other tax of the said county of Faribault placed in his hands for collection, and to pay the amount so collected to the treasurer of the village of Winnebago City incorporated by this act.

SEC. 15. In any action brought to recover any penalty or damage under this act, or under any ordinance made by the common council, it shall be sufficient to complain that the defendant is indebted to the village to the amount of said penalty or damages and costs, and to refer to the act or ordinance under which the same is claimed and to give the special matter in evidence under it. All civil cases shall be under the control and direction of the common council; they shall have power to settle, compromise or prosecute all such actions on the part of the village when said village shall be a party or be interested in such actions, and no person shall be an incompetent juror by reason of being an inhabitant of said village in an action to which the village shall be a party.

SEC. 16. The common council shall have power to prevent the dangerous construction of chimneys, fireplaces, stove pipes for the conducting of fire, heat or smoke, and cause the same to be made safe, and to prohibit the deposit of ashes in any unsafe place. They shall have power to appoint a chief engineer to take charge of the fire department, wardens to inspect chimneys and all other places dangerous on account of fire, to organize hook and ladder and other

fire companies, purchase fire engines and hooks and ladders and other apparatus, to provide for the support and regulation of such companies and to be under their control. Active members of such companies shall be exempt from serving on juries and from doing highway labor, except on property tax, so long as they shall continue active members. The common council shall have power individually to compel citizens to work at fires, and make and regulate fines for refusing to work at such fires.

SEC. 17. The territory embraced within the limits of said village of Winnebago City by this act shall constitute one road district, and the common council shall appoint an overseer who shall be styled street commissioner, whose duties shall be the same as that of road overseer as defined by the general laws, the ordinances of the council and as prescribed by this act.

SEC. 18. The corporation is invested with all the powers to carry into full force and virtue and effect all and every part of the charter of said village, and the acts amendatory thereto, and to carry into execution the same shall have full power to pass and ordain all and every ordinance necessary to carry out fully the meaning and intent thereof.

SEC. 19. All previous acts, or amendments thereto, which in any way conflict with the provisions of this act, are hereby repealed.

SEC. 20. This act shall take effect and be in force from and after its passage. *Provided*, That if fifteen of the legal voters of the district, in the first section of this act described as the village of Winnebago City, shall petition the canvassers, in this act named, on or before the twenty-fourth day of March, A. D. one thousand eight hundred and seventy-three, for an election to determine whether the people in said district described desire this act of incorporation, upon the presentation of such petition to said canvassers, they shall fix and appoint the first Monday in April, A. D. eighteen hundred and seventy-three, for such election, and shall give ten days' notice of such election by posting three notices in writing, at three of the principal places of business in said district. At said election ballots shall be cast, and votes counted by said canvassers appointed by this act for the officers of said village, as in this act provided. And there shall be provided a separate ballot box, in which shall be cast the ballots provided for in this section. The ballots used at such election shall be written or printed on paper as follows: "For village charter," or "Against village charter," as the case may be. The votes at said election shall be canvassed by said canvassers, and the result thereof declared by them before the votes for officers of said village are canvassed. If said canvassers shall declare that a majority of said votes were "For village charter," or if the petition in this section referred to and provided for, should not be presented

to said canvassers as provided herein, then in such case this act shall be and remain in full force and effect, the same as would have been the case had not this proviso been inserted in this act. But if a majority of votes should be "Against village charter," then in such case all rights, privileges and powers provided for in this act shall be forfeited, and no further election or action under or by virtue of it shall be taken or be valid. No irregularities in the proceedings or election in this proviso provided for, shall affect or default this act. The polls of the election in this section provided for, shall be opened at ten o'clock in the forenoon, and closed at four o'clock in the afternoon of said day, as provided for annual elections in section ten of chapter one of this act.

Approved March 8, 1873.

CHAPTER IX.

AN ACT TO INCORPORATE THE VILLAGE OF BYRON, IN OLMSTED COUNTY, MINNESOTA.

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. All that part of Olmsted county in the state of Minnesota included within the following described limits, description and boundaries, to-wit: All of section number thirty-two, (32) the west half of section number thirty-three, (33) the south half ($\frac{1}{2}$) of section number twenty-nine, (29) and the south-west quarter ($\frac{1}{4}$) of section number twenty-eight, (28) all in township one hundred and seven (107) north of range number fifteen (15) west, shall be a village by the name of "The village of Byron," and the people now inhabiting and those who shall hereafter inhabit the district of country herein described shall be a municipal corporation by the name of the village of Byron, and shall have all the powers possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specially granted and the authorities thereto shall have perpetual succession, shall be capable of contracting and being contracted with, of suing and being sued, and in all courts, may have a common seal and change the same at pleasure, and may also take, hold, purchase and lease such